



Brussels, 16 March 2020
REV2 – replaces the notice (REV1) dated
18 January 2019

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU AVIATION SAFETY RULES

Since 1 February 2020, the United Kingdom has withdrawn from the European Union and has become a ‘third country’.¹ The Withdrawal Agreement² provides for a transition period ending on 31 December 2020.³ Until that date, EU law in its entirety applies to and in the United Kingdom.⁴

During the transition period, the EU and the United Kingdom will negotiate an agreement on a new partnership, providing notably for a free trade area. However, it is not certain whether such an agreement will be concluded and will enter into force at the end of the transition period. In any event, such an agreement would create a relationship which in terms of market access conditions will be very different from the United Kingdom’s participation in the internal market,⁵ in the EU Customs Union, and in the VAT and excise duty area.

Therefore, all interested parties, and especially economic operators, are reminded of legal repercussions that need to be considered when the transition period ends. As of the end of the transition period, the EU rules in the field of civil aviation safety will no longer apply to the United Kingdom. This has, in particular, the following consequences in the different areas of civil aviation safety:

¹ A third country is a country not member of the EU.

² Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ L 29, 31.1.2020, p. 7 (“Withdrawal Agreement”).

³ The transition period may, before 1 July 2020, be extended once for up to 1 or 2 years (Article 132(1) of the Withdrawal Agreement). The UK government has so far ruled out such an extension.

⁴ Subject to certain exceptions provided for in Article 127 of the Withdrawal Agreement, none of which is relevant in the context of this notice.

⁵ In particular, a free trade agreement does not provide for internal market concepts (in the area of goods and services) such as mutual recognition, the ‘country of origin principle’, and harmonisation. Nor does a free trade agreement remove customs formalities and controls, including those concerning the origin of goods and their input, as well as prohibitions and restrictions for imports and exports.

Advice to stakeholders:

To address the consequences set out in this notice, aviation stakeholders are in particular advised to:

- make use of the ‘early application programme’ of the European Union Aviation Safety Agency (EASA) in order to ensure regulatory compliance with EU rules;
- adapt processes to the fact that for all relevant purposes, including the capacity of an undertaking as an aircraft operator and certification and registration of aircraft, the position of the United Kingdom as a third country is to be taken into account and that, therefore, the relevant EU rules pertaining to situations involving third countries will apply;
- ensure compliance of aviation personnel⁶ with EU certification requirements as of the end of the transition period, by transferring UK-issued certificates to an EU authority.

1. TYPE CERTIFICATES, CERTIFICATES FOR PARTS AND APPLIANCES, CERTIFICATES FOR DESIGN ORGANISATIONS

In accordance with Article 77 of the Basic Regulation⁷, EASA carries out the functions and tasks of the state of design on behalf of Member States with regard to the type certificates for products⁸, certificates for parts and appliances, and certificates for design organisations. Such certificates⁹ issued by EASA to persons and organisations located in the United Kingdom will therefore no longer be valid in the EU as of the end of the transition period. The certificates’ holders concerned are informed that the products, parts and appliances concerned will no longer be considered as certified in accordance with Section I of Chapter III of the Basic Regulation.

Holders of these certificates which cease to be valid as of the end of the transition period, and who would like to pursue their activities in the EU as of that date, would need to ensure, as of that date, compliance with certification requirements according to the EU legislation on aviation safety. Depending on the certificates in question, such action may for example involve application to EASA for a third country

⁶ E.g. pilots, cabin crew, instructors, assessors, examiners.

⁷ Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, OJ L 212, 22.8.2018, p. 1.

That Regulation repealed and replaced Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC (OJ L 79, 19.3.2008, p. 1). References in this Notice to the Basic Regulation must be understood as including the latter Regulation, insofar as it concerns periods prior to 11 September 2018.

⁸ According to Article 3(3) of the Basic Regulation, "product" means an aircraft, engine or propeller.

⁹ According to Article 3(12) of the Basic Regulation, "certificate" means any certificate, approval, licence, authorisation, attestation or other document issued as a result of certification attesting compliance with the applicable requirements.

certificate, or otherwise for the issuance of a certificate following relocation of the person or entity into the EU.

2. **CERTIFICATES ISSUED BY THE COMPETENT AUTHORITIES OF THE UNITED KINGDOM**

Holders of certificates issued before the end of the transition period **by the competent authorities of the United Kingdom** by virtue of the Basic Regulation and any relevant implementing or delegated acts are informed that these certificates will no longer be valid in the EU as of the end of the transition period. This concerns in particular:

- Certificates of airworthiness, restricted certificates of airworthiness, permits to fly, approvals of organisations responsible for the maintenance of products, parts and appliances, approvals for organisations responsible for the manufacture of products, parts and appliances, approvals for maintenance training organisations, and certificates for personnel responsible for the release of a product, part or appliance after maintenance, issued pursuant to Section I of Chapter III of the Basic Regulation;
- Pilot licences, pilot medical certificates, certificates for pilot training organisations, certificates for aero-medical centres, certificates for flight simulation training devices, certificates for persons responsible for providing flight training, flight simulation training or assessing pilots' skill, and certificates for aero medical examiners, issued pursuant to Section II of Chapter III of the Basic Regulation;
- Certificates for aircraft operators and attestations for the cabin crew, issued pursuant to Articles 30 and 22 of the Basic Regulation;
- Certificates for aerodromes, certificates for ATM/ANS providers, licences and medical certificates for air traffic controllers, certificates for air traffic controller training organisations, certificates for aero medical centres and aero medical examiners responsible for air traffic controllers, certificates for persons responsible for providing practical training or assessing the skills of air traffic controllers, issued pursuant to Sections IV to VI of Chapter III of the Basic Regulation.

Stakeholders are reminded that EASA accepts applications for certain Third Country approvals from existing UK approval holders. This concerns the following certificates and approvals:¹⁰

- **Production Organisation Approval - POA (EASA Form 55)**
- **Letters of agreement for production without a POA (EASA Form 65)**
- **Maintenance Organisation Approvals - MOA (EASA Form 3 & Form 3MF)**
- **Maintenance Training Organisation Approvals - MTOA (EASA Form 11)**

¹⁰ <https://www.easa.europa.eu/brexit>

- **Continuing Airworthiness Management Organisation - CAMO approvals (EASA Form 14)**
- **Flight Simulator Training Devices - FSTD (EASA Form 145)**
- **Approved Training Organisations - ATO (EASA Form 143)**
- **Aero-Medical Centres - AeMC certificates (EASA Form 146)**
- **ATM/ANS provider certificates (EASA Form 157)**

3. CERTIFICATES RELATED TO PARTS AND APPLIANCES ISSUED BY THE LEGAL AND NATURAL PERSONS CERTIFIED BY THE COMPETENT AUTHORITIES OF THE UNITED KINGDOM

3.1. Parts and appliances placed on the EU or the United Kingdom market before the end of the transition period

Article 41 of the Withdrawal Agreement provides that an existing and individually identifiable good lawfully placed on the market in the EU or the United Kingdom before the end of the transition period may be further made available on the market of the EU or of the United Kingdom and circulate between these two markets until it reaches its end-user, or be put into service in the EU or in the United Kingdom in accordance with the applicable provisions of EU law. Consequently, parts and appliances for which a person certified by the competent authorities of the United Kingdom issued a valid certificate of conformity under EU aviation safety rules can be used in the EU, in accordance with the applicable provisions, also after the end of the transition period, provided that they have been placed on the market of the EU or the United Kingdom, before the end of the transition period.

The economic operator relying on those provisions bears the burden of proof of demonstrating on the basis of any relevant document that the good was placed on the market in the EU or the United Kingdom before the end of the transition period.¹¹

For the purposes of these provisions, “placing on the market” means the first supply of a good for distribution, consumption or use in the course of a commercial activity, whether in return or payment or free of charge.¹² ‘Supply of a good for distribution, consumption or use’ means that ‘an existing and individually identifiable good, after the stage of manufacturing has taken place, is the subject matter of a written or verbal agreement between two or more legal or natural persons for the transfer of ownership, any other property right, or possession concerning the good in question, or is the subject matter of an offer to a legal or natural person or persons to conclude such an

¹¹ Article 42 of the Withdrawal Agreement.

¹² Article 40 (b) of the Withdrawal Agreement.

agreement.”¹³”Putting into service” means “the first use of a good within the Union or the United Kingdom by the end user for the purposes for which it was intended [...]”.¹⁴

3.2. Parts and appliances placed on the EU or the United Kingdom market as of the end of the transition period

As of the end of the transition period, the EU rules in the field of civil aviation safety will no longer apply to the United Kingdom. Legal and natural persons certified by the authorities of the United Kingdom, and who would like to pursue their activities in the EU and issue certificates in accordance with EU law, as of the end of the transition period, would need to ensure, as of that date, that they are certified in accordance with the EU legislation on aviation safety (cf. notably section 2 of this notice).

4. AIRCRAFT OPERATORS FROM THE UNITED KINGDOM

According to Article 2(1)(c) of the Basic Regulation, the Basic Regulation is applicable to the operation of aircraft into, within or out of the territory to which the Treaties apply by a third country aircraft operator. As of the end of the transition period, aircraft operators from the United Kingdom will be considered as ‘third country aircraft operators’. within the meaning of this provision and other EU legislation on aviation safety. This means that a safety authorisation from the EASA will be required in accordance with Articles 60 and 82(1) of the Basic Regulation.

Stakeholders are informed that EASA accepts applications from UK aircraft operators for third country aircraft operators.¹⁵

5. AIRCRAFT REGISTERED IN THE UNITED KINGDOM

According to Article 2(1)(b)(ii) of the Basic Regulation, the Basic Regulation is applicable to the design, production, maintenance and operation of aircraft, as well as their engines, propellers, parts, non- installed equipment and equipment to control aircraft remotely, where the aircraft is or will be registered in a third country and operated by an aircraft operator established, residing or with a principal place of business in the territory to which the Treaties apply. As of the end of the transition period, aircraft registered in the United Kingdom will be considered as registered in a third country within the meaning of this provision and other EU legislation on aviation safety.

This means that EU aircraft operators using such aircraft will need to comply with the provisions of the Basic Regulation and any relevant implementing and delegated acts. They will also need to comply with relevant provisions stemming from Regulation

¹³ Article 40(a) of the Withdrawal Agreement.

¹⁴ Article 40(d) of the Withdrawal Agreement.

¹⁵ <https://www.easa.europa.eu/brexit>

(EC) No 1008/2008 on air services¹⁶ concerning the use of ‘third country’ registered aircraft.¹⁷ In particular, EU air carriers intending to wet lease aircraft registered in the United Kingdom will be bound by the corresponding provisions relating to such aircraft. As regards safety, they will thus have to demonstrate that safety standards equivalent to those imposed by Union or national law are met.

The websites of the Commission on air transport, including aviation safety (https://ec.europa.eu/transport/modes/air_en) and of EASA (<https://www.easa.europa.eu/>) provide general information. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Mobility and Transport

¹⁶ Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community, OJ L 293, 31.10.2008, p. 3.

¹⁷ It is noted that, according to Regulation 1008/2008, aircraft used by a Union air carrier but which is neither dry leased nor wet wet leased by that carrier, must be registered in a Member State.